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PUBLIC SUBMISSION

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The following is my response to Proposals within the Quality of Advice Review issued today.

<https://treasury.gov.au/consultation/c2022-307409>

Proposal 5 is what this entire paper was all about – **allowing Industry Super Funds to collectively charge members for TTR Pension advice for individual fund members.**

Recent research by Core Data indicated that there is over \$60 million pa being charged against members super funds accounts now, for personal advice that most of these default super fund members will never receive.

Effectively, the Treasury paper is proposing there should be **no restrictions** on collectively charging all super fund members for the personal advice the Fund chooses to give to select individual members.

I.e. there is **no requirement for consent** by fund members for intra-fund advice fees charged against their account to pay for the advice provided to other members.

This is simply theft, pure & simple.

The only way a member could escape their fund being over-charged in this manner by the SGC Fund Trustee, is to move to their own SMSF.

Proposal 5 – personal advice to superannuation fund members

Superannuation fund trustees should be able to provide personal advice to their members about their interests in the fund, including when they are transitioning to retirement. In doing so, trustees would be required to take into account the member's personal circumstances, including their family situation and social security entitlements if that is relevant to the provision of the advice.

Proposal 6 - collective charging of advice fees

Superannuation fund trustees should have discretion to decide how to charge members for personal advice they provide to members and the restrictions on collective charging of fees should be removed.

Outcome: These proposals are aimed at improving access to personal advice for superannuation fund members and to provide increased regulatory certainty for superannuation trustees.

Proposal 6 should not occur & Proposal 7 should be the only basis for Personal Advice charged by a Super Fund.

Proposal 6 would legislate actual theft against other fund members that do not wish to receive nor pay for advice.

Theft of funds from a members account **for the express purpose of providing advice provided to OTHER members** is a complete breach of the Sole Purpose Test of increasing retirement benefits for individual members.

Proposal 7 – Fees for advice provided to members about their superannuation

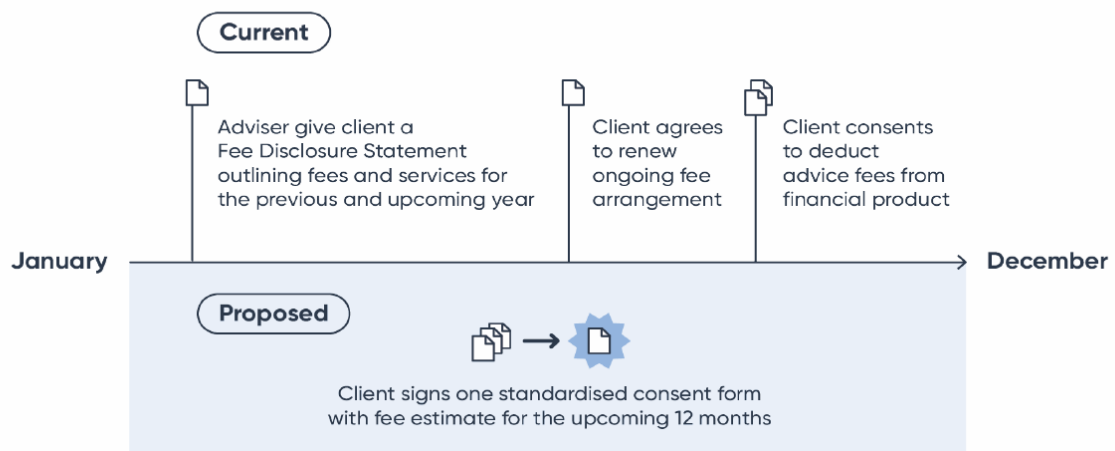
Superannuation trustees should be able to pay a fee from a member's superannuation account to an adviser for personal advice provided to the member about the member's interest in the fund on the direction of the member.

Outcome: This proposal is aimed at improving regulatory certainty for superannuation trustees.

5.1 Fee disclosure and ongoing fee arrangements

This would leave the renewal requirements and the consent form. It should be a requirement of the law (as it is now) that a consumer's agreement is sought and provided before advice fees are deducted from their financial products. They should also provide a direction to the product issuer before the deduction is made. An adviser could pass on that direction with the consent of their client. I also think a client should be given the opportunity to consent (or not) to ongoing advice fees in writing on annual basis, as the law currently requires. These are important consumer protection tools which I do not think should be relaxed. I also do not think they are unduly onerous. Where there is an ongoing advice fee, there should be regular contact between the client and the adviser. The law should continue to permit the client to terminate the arrangement at any time.

Diagram 4: Ongoing fee arrangements and consent requirements



The QAR document indicates **zero understanding** of how the day-to-day processes work within a Personal Advice business servicing time poor families.

This is highlighted when the opinion is expressed “*I also **do not think** they are unduly onerous*”.

This statement is simply an opinion that is factually incorrect.

For many time-poor families, any type of annual fee consent form is not workable nor sustainable (refer to Proposal 12 – Page 37).

In every nation on earth, **except Australia**, no such “**annual**” **bureaucratic red-tape form** requirement exists whatsoever.

Imposing annual fee red-tape is causing consumer harm to time poor families, as it locks them out of the advice process due to this very costly red-tape.

However there is a workable solution:

That is that **any legislative changes in relation to ongoing fees needs to be drafted in line with the existing Corps Act 962A(3).**

http://classic.austlii.edu.au/au/legis/cth/consol_act/ca2001172/s962a.html

CORPORATIONS ACT 2001 - SECT 962A

Ongoing fee arrangements

[Ongoing fee arrangements](#)

(1) If:

(a) a [financial services licensee](#) gives [personal advice](#) to a [person](#) as a [retail client](#); and

(b) that [person](#) enters into an [arrangement](#) with the [financial services licensee](#), or a [representative](#) of the [financial services licensee](#); and

(c) under the terms of the [arrangement](#), a fee (however described or structured) is to be paid during a period of more than 12 months;

the [arrangement](#) is an [ongoing fee arrangement](#) .

(2) If:

(a) a [representative](#) of a [financial services licensee](#) gives [personal advice](#) to a [person](#) as a [retail client](#); and

(b) that person enters into an arrangement with the representative or the financial services licensee; and

(c) under the terms of the arrangement, a fee (however described or structured) is to be paid during a period of more than 12 months;

the arrangement is an ongoing fee arrangement .

Paying for advice by instalments

(3) Despite subsections (1) and (2), an arrangement is **not** an ongoing fee arrangement if each of the following is satisfied:

(a) the total of the fees payable under the terms of the arrangement is fixed at the time the arrangement is entered into;

(b) the total of the fees payable under the terms of the arrangement is specified in the arrangement;

(c) the fees payable under the terms of the arrangement are to be paid by instalments over a fixed period specified in the arrangement;

(d) the fees payable under the terms of the arrangement can reasonably be characterised as relating to personal advice given to the person before the arrangement is entered into;

(e) under the terms of the arrangement, there is no fee payment of which, or the amount of which, is dependent on the amount invested by the person, or the amount in relation to which personal advice is given;

(f) the person cannot opt out of payment of any of the fees payable under the terms of the arrangement.

Insurance premiums

(4) Despite subsections (1) and (2), an arrangement is not an ongoing fee arrangement if the only fee payable under the arrangement is an insurance premium.

Other prescribed arrangements

(5) Despite subsections (1) and (2), an arrangement is not an ongoing fee arrangement if it is an arrangement of a prescribed kind that relates to a fee that is prescribed as a product fee.

http://classic.austlii.edu.au/au/legis/cth/consol_act/ca2001172/s962a.html

The solution is to supply an agreed fee disclosure of a fixed amount up front, for a fixed cost, that could extend for say up to 36 to 60 months, or whatever the client & adviser mutually agrees to.

This addresses fee disclosure but allows members the ability to pay for advice for say \$55 a month over 60 months, rather than pay a full \$3,300 up front (*which is allowed now*).

It is worth noting that the legislation says such a fixed term monthly fee arrangement in Corps Act 962A(3) is **NOT an “ongoing fee”.**

However all super funds Trustees currently ignore Corps Act 962A(3), when they should be upholding it.

The Corps Act 962A(3) solution provides for full disclosure but eliminates onerous annual form chasing, which neither the time-poor client nor the advisers want.

Super Fund Trustees would also welcome reducing this ongoing fee red-tape, also reducing internal administrative costs.

This is no different to a Telstra Phone contract.

As an example, if the fixed monthly fee consent is not renewed in the (say) 61st month, monthly fees charged then cease.

The large super fund trustees have the administrative capacity now to manage such fee arrangements for any set period.

It is worth noting that personal advice fees are clearly reported in Annual Fund Reports, as distinct from Intra-Fund Advice fees, which are not clearly itemised.

Proposal 8 – Ongoing fee arrangements and consent requirements

Fee disclosure statements should not be required. Providers of personal advice should obtain annual written consent from their client to deduct advice fees from a financial product if there is an ongoing fee arrangement. The consent form should explain the services that will be provided and the fee the adviser proposes to charge over the course of the following 12 months. Where advice fees are deducted from more than one product, a single consent form should cover each of the products issued by a product issuer.

Outcome: This proposal is aimed at reducing regulatory complexity and burden. This is intended to reduce the cost of providing advice and subsequently increase the accessibility and affordability of financial advice without consumer detriment.

If a search was made in the Parliamentary Library regarding the historic “Customer Advice Records” (CAR) that were issued in the 1992-1995 period, this is essentially what we need to return to.

A “CAR” was a simple one-to-two-page letter outlining why the Product / Advice is being recommended, and the cost to the client of doing so. This is not onerous.

It can be produced and issued with a Corps Act 962A(3) Fixed Fee Disclosure Statement Consent form that operates for say 36 to 60 months.

Proposal 9: Statement of advice

Providers of personal advice to retail clients would be required to maintain complete records of the advice they provide and to provide a written record of advice to a client on request. This would replace the existing requirement for advisers to provide a statement of advice or record of advice.

Outcome: This proposal is aimed at reducing regulatory complexity and burden. This is intended to reduce the cost of providing advice and subsequently increase the accessibility and affordability of financial advice without consumer detriment.

SUBMISSION ENDS

Kind regards

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